

Summary of December 2000 Stakeholder Meeting on the Consolidated Assessment and Listing Methodology (CALM) Initiative

Overview

This document summarizes four meetings hosted by the U.S. Environmental Protection Agency (EPA) on December 4 and 5, 2000, in Chicago, Illinois, at the EPA Region 5 Offices. These meetings were a follow-up to meetings held in June 2000 in Washington, D.C. to obtain stakeholder input on the CALM initiative and generally followed the same format as the June meetings. Subsequent to the June meetings, EPA's Assessment and Watershed Protection Division (AWPD) published a draft outline of Phase I of the proposed Consolidated Assessment and Listing Methodology (CALM). Participants in the meetings were asked to comment on the draft outline.

The CALM initiative addresses identification of impaired waters under Section 303(d) and preparation of water quality assessment reports under Section 305(b) of the Clean Water Act. Phase I would focus on water quality standards attainment decisions and comprehensive quality monitoring programs.

In this document, general themes emerging from the meeting are identified first, followed by separate summaries of each of the four meetings.

The meetings were designed to obtain input from stakeholders as follows:

- Meeting 1: Point Source Representatives
- Meeting 2: Non-Governmental Organizations
- Meeting 3: Nonpoint Source Representatives
- Meeting 4: State Agency Representatives

At each meeting, each participant was given an opportunity to speak so that EPA could consider all points of view. This document therefore captures the diverse comments of individual participants and cannot be construed as representing a consensus of the participants or any group of them.

Participants' observations were recorded on flipcharts during the meetings. During and at the end of each meeting, participants were asked to review the flipcharts for accuracy and completeness. With minor changes to improve clarity for those who were not present, the detailed summaries of the separate meetings contain the original flipchart language.

Participants' comments are organized under key subject headings and are not necessarily presented in the order they were offered at the meeting. During an introductory session at the outset of each meeting, Margarete Heber, Chief of the Monitoring Branch in AWPD, briefed participants on the draft outline. [A copy of the slides Ms. Heber used during her presentation is included at the end of this summary as Appendix A.]

Agenda

Each meeting followed the same basic agenda:

- (1) Introduction of participants and review of meeting objectives;
- (2) Brief presentation on the CALM initiative and draft outline by Margarete Heber;
- (3) Facilitated discussion between participants and EPA staff, focusing on participants' views;
- (4) Opportunity for comment by non-participant observers; and
- (5) Wrap-up/review of next steps.

The meetings were facilitated by Ross & Associates Environmental Consulting, Ltd, with notetaking support from Tetra Tech, Inc. Each participant was specifically invited to speak during the meeting and almost all did so. The meetings were facilitated to ensure fair opportunity for all to speak, to help keep to the schedule, and to help stay on subject. However, most of the discussion was informal. From time to time, EPA staff answered questions or asked questions of the participants.

Participation

Participation was generally limited to representatives of the interests for which each meeting was organized (point source representatives at Meeting 1, non-governmental organization representatives at Meeting 2, etc.). Participants generally decided independently which of the four meetings to attend. In a few cases, participants in a meeting may have represented interests other than those targeted for that session.

Participants were seated at a table, along with EPA representatives. Each meeting was open to the public and several observers were present at all meetings. The number of participants from the targeted stakeholder group for each meeting was as follows:

- Meeting 1: 31 Point Source Representatives;
- Meeting 2: 6 Non-Governmental Organization Representatives;
- Meeting 3: 10 Nonpoint Source Representatives; and
- Meeting 4: 16 State Agency Representatives.

Over the course of the two days of meetings, 78 individuals attended, including EPA staff, observers, and meeting facilitators. Attendees are listed in Appendix B of this document.

Themes Emerging from the Four Meetings

General Reaction to EPA's Plans to Develop Guidance on a Consolidated Approach

- Most participants expressed **support** for the overall approach. (This and most other comments were consistent with comments raised at the June meeting.)
- Several participants noted that the draft outline was not specific in acknowledging the **differing purposes of Sections 303(d) and 305(b)** of the Act that may require different approaches to attainment determinations (e.g., amount and quality of

- data needs may differ). Some participants expressed concern, often based on resource limitations, about adopting different monitoring approaches for 305(b) (probabilistic monitoring) and 303(d) (targeted monitoring). Others agreed that such an integrated approach would be reasonable.
- Some participants favored including **benchmarks** in the CALM document to help stakeholders determine if a state has a strong monitoring and assessment methodology as compared to other states. State participants, however, generally strongly favored flexibility in this regard. Some participants recommended incorporating a regularly scheduled **evaluation** into the CALM effort to ensure that states are following the methodologies they submitted to EPA.
 - Many participants commented on or asked questions about the degree of **specificity and prescriptiveness** in the CALM document. Some (mostly point source representatives) suggested that EPA be specific about: 1) minimum standards for acceptable state programs; and 2) what is not acceptable. These concerns focused primarily on Section 303(d) listing decisions. With regard to comprehensive monitoring programs, a few participants pointed out that minimum standards would assist with state budgeting and resource allocation decisions. Others raised concerns, however, that if EPA defines minimum elements of a state monitoring program, some states may fund only these activities, possibly reducing current investments in monitoring.
 - Some participants noted that the purpose statement in the draft outline seems to focus on the need to improve documentation. While participants agreed that this is an important purpose, they suggested that a more important and overriding purpose is to **improve data quality** to ensure better understanding of water quality and better decisions about attainment status.
 - Many participants acknowledged that the CALM effort, if successful, will help **foster an increased level of trust** among EPA, states, the regulated community, and the public by providing for an **open and transparent process** for attainment decisions. Some state participants expressed concern about possibly inconsistent and/or overly harsh review and evaluation of their decision-making processes by EPA Regional Offices. One suggestion was that EPA Headquarters should issue guidance to the Regions on how to review responses from the states on their methodologies.

Determining Attainment/Nonattainment

- Consistent with suggestions made at the June meeting, various participants supported the CALM's document providing information on:
 - How to handle **historical/aged data**;
 - General data requirements and process for **303(d) delisting**;
 - Proper uses of **evaluated data** generally;
 - When/whether to use **biological data** to determine attainment status;
 - The definition, intent, and use of **EPA's policy of "independent applicability"** when integrating multiple data sets to determine attainment status.

- In addition, participants suggested that EPA address:
 - How to make decisions about nutrient and (clean) sediment problems while waiting for **nutrient and sediment criteria** from EPA;
 - How to determine attainment of designated uses and narrative criteria;
 - How to address wetlands criteria and/or antidegradation provisions. (It was noted that these may be addressed later than in Phase I.)
- Many participants noted that the process of making attainment/non-attainment decisions is predicated on **scientifically-sound water quality standards**. Many participants urged EPA to work to improve the process for review and development of water quality standards. Several participants expressed concern about making 303(d) listing decisions based on narrative criteria.
- Most participants said that states should establish quality assurance/quality control (QA/QC) parameters that could be followed by stakeholders willing to perform monitoring and that any data, including **stakeholder data**, should be used without bias by states in making attainment determinations, as long as the data are collected in accord with the prescribed parameters. However, many state participants expressed concern about the cost to states of using third party data. Participants suggested that it might be helpful to route third party data through a watershed group or other NGO with data quality assurance mechanisms in place.
- Many participants noted that it is important for state and EPA attainment determinations to be as **transparent to the public** as possible. A transparent process will foster **locally-led solutions** to many water quality problems. Participants also noted that EPA and the states should better define the purposes and consequences of Section 303(d) lists and Section 305(b) inventories to the public.
- Many participants requested guidance on **303(d) delisting** decisions. Participants representing point and nonpoint source interests specifically suggested that EPA provide for states to revise their current lists to reflect the data quality/quantity and decision processes states establish in response to the CALM.

Comprehensive Assessments

- There was **general support** for the concept of ensuring that all waters are assessed and there was considerable interest in the probabilistic monitoring approach for Section 305(b) assessment purposes. Participants encouraged EPA to consider state monitoring as a priority for **Section 106 funding**.
- Some participants suggested that, through the CALM process, EPA should provide states with incentives to **perform more monitoring**.
- Participants requested clarification on the "nested monitoring" approach described by EPA that encourages the use of **probabilistic monitoring** followed by **targeted monitoring**. Many participants encouraged EPA to clearly define each monitoring approach and describe how and when states should use each approach. Participants generally suggested that probabilistic monitoring approaches are

appropriate only for use in 305(b) efforts and that states should use a more targeted approach for making 303(d) listing decisions.

- Several participants from the point source community expressed an interest in **voluntarily conducting ambient monitoring** to supplement state efforts. However, some participants from this group expressed concerns about states requiring ambient monitoring in NPDES permits.

For more specific information on views expressed by participants, please read on to the separate meeting notes, below.

Meeting 1 Notes:

Point Source Representatives

General Comments

- CALM is a worthwhile effort. We are in need of a clear, transparent, scientifically-based methodology in each state. EPA giving guidance makes sense and is important. We might quarrel about specifics, but we agree it needs to be done.
- CALM is worthwhile, but the methodology for 305(b) and 303(d) will need to be different. We may need two documents. If so, a document for 303(d) is priority.
- The tone of the outline does not specifically match the comments and emerging themes of the last meeting. For example, the outline should include more discussion on the fact that 303(d) should be based on more statistically sound, site-specific data and on numeric water quality standards. Also, the outline should specifically include the idea that 305(b) indicates where we need to collect more data. Waters should only be listed where there is hard data and numeric criteria. The outline currently contains some "squishy" statements regarding 303(d) listings (e.g., listings not based on numeric water quality standards are ok). This draft outline seems more "data negative" and concedes the fact that we don't have enough valid data.
- The point source community pays attention to 305(b) and sees value in 305(b) to identify problem areas. We view the 303(d) list as a subset of the 305(b) report.
- POTWs are willing to be involved in ambient monitoring as a tradeoff for effluent monitoring.
- POTWs are willing to monitor water quality as a way to protect the public's investment in effective wastewater treatment.
- Point sources are opposed to increased requirements for permittees to collect ambient data. Prefer voluntary approach to participating in ambient monitoring.
- The states should make water quality standards, implementation guidance, and the schedules for upcoming triennial reviews available online. EPA promised this, but it has not yet been done. The assessment/attainment determination process begins with the water quality standards.
- The document resulting from the outline should not be referred to as a "guidance document" because that implies that states do not have to follow it. It is not clear

that there is an incentive for states to change if these concepts are not included in regulation.

- Placing state water quality standards on the web is relatively easy and will likely be done in time, but interpretation of the standards is difficult to explain on the web. That is why processes and rationale should be documented as CALM would provide.
- Point sources are most interested in 303(d) because of its implications to permittees. EPA should link 305(b) and 303(d), then the 303(d) listing would derive from 305(b). EPA should emphasize that there are different consequences associated with each of the lists. The document should clearly state that decisions made on the basis of data related to 305(b) and 303(d) have different regulatory implications. Not all lists are equal.
- This document should not focus only on better documentation of decision processes; we want incentives for increased monitoring.

Attainment Decisions

- Include a discussion of delisting with the discussion of attainment in the CALM document.
- The June CALM presentation had a strong emphasis on measured data. The outline did not have the same emphasis. The outline should emphasize the importance of using measured data to make decisions.
- Concerned about the "maybe list" concept. States would need this to be part of their 305(b) reports. This is new ground. Previously there was no room for inconclusive data or "maybe." Waters were either attaining or impaired.
- Clarify that only numeric standards and hard data can lead to 303(d) listing.
- Not enough emphasis on measured data. Using actual hard data is the right way to make listing decisions.
- Clarify Section 13.4 of the outline which lists 3 ways of determining extent of attainment. Are these options, and if so, is there a preferred option? (EPA is seeking documentation on what states are doing now and plans to provide guidance on what is acceptable in the future.)
- Will the concept of a "maybe list" be used? (EPA stated that 303(d) does not authorize a "maybe list," but in their 305(b) reports states may identify waters that lack sufficient data to make an attainment decision. These waters would be candidates for follow up monitoring.)
- Clarify whether/how threatened waters would be addressed.
- What if a water is on a past list, but the state's new methodology says the data are inconclusive? Would the water go off the list and be placed in another category for follow-up monitoring? (EPA stated that under the current regulations waters may be removed from the list only if the original basis for listing was mistaken or when the state determines that the listed water is in attainment. Third party data, such as from citizen volunteers and point sources, could help to document attainment. Some states will put these waters at the top of their 303(d) list because they think when they actually get data, they'll be able to delist rather than develop a TMDL.)

- If a water is listed as a result of only one data point, it should not stay on the list.
- Section 2.2 of the outline includes mention of documentation of data quality as an important piece of reporting, but does not include details on including back-up documentation. Helpful to include a list of "metadata" that is necessary to document data quality, as in **(Section 3.3?)** of the outline.
- Section 3.4 of the outline addresses statistical tools for interpreting data. Concerned that states may erroneously list water based on small data sets. Waters should not be listed unless there are real data showing non-attainment.
- Regarding Section 9 of the outline, provide guidance on interpreting each type of data when integrating multiple types of data.
- Regarding EPA's policy of independent applicability, what if data on copper show an exceedance, but biological data says water is healthy? (EPA explained its independent applicability policy and stated that there is no known case where equally valid data for both chemical and biological data suggested different attainment decisions.)
- Clarify the quality and quantity of data in relation to application of the policy of independent applicability. The statements contained in the outline regarding the use of biological data seem to be in conflict.
- Clarify the minimum number of observations needed for an attainment determination.

Comprehensive Assessment

- Clarify the concept of probabilistic monitoring. EPA should be extremely careful to clarify the uses of each monitoring approach described in the outline -- probabilistic monitoring is for use in developing the 305(b) list and targeted monitoring is used for developing the 303(d) list.
- Include discussion of a basinwide approach in the monitoring design portion of the methodology.
- Some states are putting monitoring requirements in NPDES permits that go beyond compliance monitoring (e.g., WET, pollutant characterization, sediment, in-stream, etc.). Permittees would be willing to voluntarily conduct this type of monitoring and share data, but we would prefer not to have these monitoring requirements included in permits.
- Will EPA set minimum elements for state monitoring programs and provide opportunity to comment on that document?
- POTWs should not be required to collect ambient data, but the states should be open to including third party data and, when practical, include third party data in the design of the state's monitoring program.

Other

- Would like to see a web site that summarizes each state's assessment methodology, including the parameters, frequency, decision methods, etc.
- Explain "SIE" in the flow chart entitled, "Using Multiple Types of Data to Assess Attainment." (EPA explained that SIE refers to the Stressor Identification

Evaluation Guidance, a document that addresses identifying the cause of biological impairment. This guidance is due out soon. EPA agreed that all acronyms need to be defined.)

- We would like to know how many TMDL efforts have resulted in delisting instead of a TMDL.
- Will EPA involve the U.S. Fish and Wildlife Service (FWS) in the development of the document? (EPA stated that the FWS is involved in other programs, such as the TMDL program, but is not directly involved in the development of this document.)

Meeting 2 Notes:

Non-governmental Organization Representatives

General Comments

- Existing 305(b) guidance seemed perfectly clear - 10% exceedance means impairment. Is the existing guidance not good enough for 303(d) purposes?
- What are the consequences for a state not having an approved methodology?
- Is the point of CALM to encourage more monitoring?
- We support putting a state's methodology on paper for people to review; tends to move efforts in a positive direction.
- Like the question and answer format of document. Difficult to determine from the outline the number of questions that EPA will use. Recommend that EPA use less questions rather than more.
- The outline only mentions antidegradation once. Unable to find anything that addresses waters that are meeting their designated uses and water quality standards, but are not meeting antidegradation. (EPA stated that antidegradation will not be covered in Phase I of the CALM.)
- EPA should have a provision for states to assess how well they are following their methodology, in particular how they are using volunteer data. Recommend requesting this information from states every two years.
- Encourage NGOs to get involved in standards process to ensure states have good, complete standards. Everything is predicated on a state having good, accurate water quality standards.

Attainment Decisions

- Are rules for water impairment for 303(d) list based only on aquatic life uses? At least one state seems to be using this approach to shorten the 303(d) list. (Example: a water is impaired for fish consumption, drinking and swimming, but the state doesn't list the water unless the aquatic life use is not met.)
- Will CALM address naturally occurring background that is causing an exceedance of the water quality standards? Would a state list waters impacted by background? (EPA stated that this is dependent on how the water quality standards are written, and that states should look at this before going through the next listing process.)

- Concerned that states with credible data laws may not meet the 303(d) requirement to consider all existing and available data.
- Concerned that arbitrarily placing age limits on data, in an effort to use higher quality data, could create a severe disincentive for monitoring. In some states, waters are taken off the 305(b) list based on the fact existing data are old, although there are no new data and no clear reason for assuming the old data are no longer representative.
- EPA should address issue of treatability in Section 9.5 of the outline. Public water supply example where intake water meets the ambient criteria, but through treatment more total dissolved solids (TDSs) are added to the water, causing it to exceed the drinking water maximum contaminant levels (MCLs). As a result, the water does not support the designated use because it is not drinkable.

Comprehensive Assessment

Why is EPA asking states to define "waters of the state?" Has there been a problem with the definition of this term in the past? (EPA stated that states have historically focused on rivers and streams, and some of them exclude other navigable waters such as lakes, coastal waters, and wetlands from their definitions.)

- Observation: At least one state would like to use TMDL models to identify most effective monitoring stations.

What is the federal standard for acceptable third party data? (EPA stated that there is no federal standard regarding acceptable third party data.)

- Inclusion of citizen monitoring data is a primary concern. Is there no guidance for states to include these data? (EPA stated that CALM will include guidance on the use of third party data and that EPA has previously issued guidance encouraging the use of citizen monitoring data.)
- Source water assessments under the Safe Drinking Water Act produce data that could benefit 305(b) and 303(d).
- Water quality monitoring councils can bring together a multitude of federal and state agencies. It is important to clearly and narrowly specify objectives of a monitoring council and then broaden out over time.
- Some states are years behind in assessing data that they have collected, even though they have expanded their monitoring programs. At least one state won't take water purveyor data even though it has gone through rigorous QA/QC.
- Which states do not accept third party data? (EPA mentioned that some states are passing "credible data laws" and other laws that prohibit the state from using any third party data, including data collected by other state and federal agencies.)
- Use NGOs, such as river authorities, to get volunteer data through to the state. In Texas, there is only a team of 11 people to do assessments. Although volunteer monitoring data are available, allocating resources to conduct QA/QC of the data is a problem.

Other

- How do people get a sense of where their state ranks in comparison with other states to determine which states are doing a good job and which states are not? Is there a compilation of methodologies from all states that allow people to compare?
- Does this document take you through both monitoring and assessment?
- Would like guidance on how to test for mercury criteria.
- Will EPA address assessment of effectiveness of TMDLs? Will states shift the focus of monitoring from assessment (i.e., monitoring healthy waters that have not yet been monitored to ensure they stay healthy) to tracking implementation and performance of TMDLs and delisting waters on the 303(d) list?
- It is important that additional Section 106 resources do not get used for other activities besides monitoring.
- Clarify the portion of the outline that discusses metrics/indicators. Unclear that metrics and indicators are synonymous and that EPA is asking the state to identify indicators for each use.
- To what extent is the United States Geological Survey (USGS) participating? (EPA explained that USGS is part of EPA/state workgroups, particularly on monitoring design. Participating in development of a national probability-based monitoring design.)

Meeting 3 Notes:

Nonpoint Source Representatives

General Comments

- CALM was needed five years ago. It is an important effort. Concerned that numerous existing water quality programs seem to operate in a vacuum. Also concerned that many impaired listings are based on drive-by assessments.
- CALM provides states with guidance how to develop a more transparent process. Real opportunity to tell states that old data should not result in a listing that may not be needed. States are hiring contractors to collect data to confirm impairment/attainment and if a TMDL is necessary. A lot of money is spent on correcting TMDL listing problems that could have been spent elsewhere on priority environmental problems.
- CALM is a good idea. It is very much needed. The devil is in the details, and it could potentially be very expensive. Concerned about taking into account variability in waters, such as seasonality, when determining attainment.
- We support CALM but it should have been done five years ago before the 1998 list was developed. It is difficult to backtrack in a regulatory scheme. Now that we have the huge list, how do we deal with perception that we're ignoring the old list as we revise the methodology and reevaluate?
- Initially excited about the CALM process, but disappointed that purpose of the document, as stated in the outline, does not specifically include improving the

data upon which these decisions are made. (EPA agreed that this should be clarified.)

- Providing for documentation does not go far enough. Where are the benchmarks for determining where we need to be in making a program better? Will technical documents referenced in the outline provide these benchmarks? Provide list of references for documents cited in the outline so stakeholders can obtain these documents and review them. (EPA agreed that this should be done.)
- Do not use acronyms in the outline or be sure to include a list of acronyms. (EPA agreed.)
- Define "iterative process."
- Without the "meat" in the outline, it is difficult to tell if the CALM document is heading in the right direction.
- Locally-led processes for addressing water quality problems are a critical component of watershed management. Through the CALM document, EPA has the opportunity to create a transparent process to help local folks understand the process. Voluntary approaches should be used wherever possible.
- Does the phrase, "Need to achieve a robust assessment of water quality within resources available for monitoring" in Section 12.3 of the outline mean "robust as possible with the money you have?" The goal should be to put more resources into monitoring so it will be a robust program.
- In the State of Oklahoma, the CALM process has had a positive effect on making transparent decisions in several programs (e.g., 305, 303, 314, 319).

Attainment Decisions

- Will the CALM document address the refinement of water quality standards, specifically designated uses? This would help with the listing process.
- EPA Regions have required some states to use the 305(b) process to collect newer information on waters that lack information as a way to expand the 303(d) list. Using the 305(b) process to expand the 303(d) list can breed distrust.
- Be more precise in the suggestions on seasonality and age of data in the guidance. Otherwise, more state legislatures will enact credible data laws. (EPA responded that in some situations, conditions in the area have not changed and older data may still be relevant. States will have to decide on a case-by-case basis.)
- The State of Iowa just passed a credible data law that states any data more than 5 years old cannot be used for regulatory purposes. (EPA stated that states are required to "consider" all data; the state does not have to "use" them. It was also noted that the Iowa law provides a rebuttable presumption that older data cannot be used, so in some appropriate cases it may be possible to show that the data are still representative of water quality conditions.)
- Provide the states with guidance on what data should be used as historical data and what data are credible. It is difficult for folks to understand that we are making decisions based on data that may be over 10 years old. Older data can be used for certain purposes, but they should not be considered credible unless they are proven credible. The CALM document should include an approach that

addresses credible data/historical data issues. If this issue is not addressed, the document will not have gone far enough and state legislatures will step in.

Comprehensive Assessment

- Regarding the concept of "nested monitoring," is EPA saying that states are not required to monitor all waters, but will make inferences to determine impairments for other waters? Will states list waters based on information collected somewhere else? (EPA explained the purposes and appropriate uses of probabilistic and targeted monitoring. Probabilistic monitoring design gives statewide information on water quality and helps to determine where to conduct follow-up monitoring. This type of monitoring provides data for use in 305(b). Follow-up monitoring is targeted and helps states to make decisions related to 303(d).)
- EPA should be very explicit about the differences and purposes of probabilistic and targeted monitoring in the CALM document.
- How is the issue of seasonality addressed in probabilistic and targeted monitoring design? EPA should keep in mind different time scales relevant to impacts (e.g., daily to years). The timeline for impacts can be long term, for example silviculture harvests occur once every 25 years, in the interim the forest is just standing undisturbed.
- How many states are using probabilistic monitoring designs? What cycle are states using under this design? (EPA responded about 6 to 12 states use this type of monitoring design. Different states are using different cycles for achieving comprehensive assessment. EPA would like some detailed examples of the different ways states may set up probability design, timeframes for implementing them and options and limitations for aggregating these results over time.)
- Is there buy-in at high levels of EPA regarding CALM? Will some of the new Section 106 funds go to states for monitoring or will other programs take a portion of these funds?

Other

- Why is EPA pushing states to go forward with TMDLs when this effort is telling states to re-evaluate and strengthen the underlying monitoring programs?
- How does CALM play into TMDLs now under development using older data? States are using data collected in the mid 1990s to develop TMDLs. Will TMDLs developed now change in light of new data?
- Does an EPA Region need to have a methodology in place if it second guesses the list developed by a state and modifies the list? (EPA stated that the Region will document its decision.)
- What does EPA have in mind regarding the implementation of the nutrient and sediment criteria?
- How does CALM affect the current lists and TMDLs? This will have significant implications for land owners.

- How does an interested party provide comments on the federal document and on the methodologies submitted by the states to EPA. (To comment on the outline, go to the CALM website. The comment process on methodologies developed by the state will differ. Most states will have a stakeholder process as they develop their methodologies.)
- What is the QA 9 Document referred to under Appendix B of the outline?
- U.S. Department of Agriculture (USDA) is not involved in water quality monitoring since it does not have the charge for monitoring like USGS. USDA is concerned about BMPs and relies on USGS water quality data to determine BMP effectiveness. Due to the Government Performance and Results Act (GPRA), USDA is making an effort to record data on a watershed basis. Data are available on a county-by-county basis for 16 key issues/BMPs. The web site with this information is www.nrcs.usda.gov/prms. USDA wants to encourage a locally-led, voluntary approach that includes technical and financial assistance rather than regulatory approach under NPDES or TMDL programs. This is key to solving water quality problems.
- Local landowners are affected by listings, but do not always receive information on what to do or the cause of impairment. It is frustrating from a landowner's perspective. People need information. The states are so busy doing paperwork that they can't do monitoring. The watershed approach is supposed to be voluntary, but stakeholders are not being asked to volunteer. We want to do something. Those of us who could most impact the outcome are not involved.
- Is the ultimate goal to understand criteria and standards?
- Why don't we work on the 305(b) assessments and prevent waters from being listed? Address trend analysis. It is important to catch waters with declining quality.
- Strongly encourage EPA to address the issue of delisting and the issue of transition from the old way of doing business and the new CALMs that states develop.
- Does the definition of "waters of the state" include wetlands? (EPA stated that the definition does include wetlands and that EPA is working on developing monitoring protocols for wetlands.)

Meeting 4 Notes: **State Agency Representatives**

General

- Extremely supportive of the CALM process. Concerned, however, that EPA is asking the states how they make decisions and calling it "guidance." This is not guidance. This is information gathering to begin a process. EPA is really asking the states to be transparent, which makes states feel vulnerable. Concerned that EPA Regions may review their methodology and may "slap" them for their process.

- Concerned that if EPA defines adequate elements of a state monitoring program, some states will view this as "minimum elements" and figure it is fine to fund only those elements.
- Include a definition of monitoring in the document. Some think monitoring means just sampling. The definition of monitoring should include everything from design to collection to analysis to reporting.
- In support of the CALM effort. It will help to iron out the consistency issues identified in New England states. Would like the document to cover both 305(b) and 303(d), so that impairment under one list equals impairment under the other list. Also, explore eliminating the difference between "partially supporting" and "not supporting" due to the problems caused by this distinction.
- CALM is a good idea since the same resources are often allocated for both programs. Concerned, however, that this could be too prescriptive.
- Asking questions of the states is good. States have not been asked questions in 10-15 years. It is good to revisit these questions and actually write down the answers. It is difficult for states to answer these questions, however, without minimum requirements.
- CALM is giving the states the opportunity to reinvent their programs.
- Good job EPA! This is the first document that identifies data analysis as a task or function.
- If this is a guidance document, EPA should make recommendations on what is good and what is acceptable. EPA should not say "must" - this term is too inflexible and tries to force fit programs.
- Identify in the document the advantages of monitoring at the state level and at the federal level (e.g., data should drive decisions of where to spend resources).
- Appreciate the pressure that EPA is under to assess waters under 305(b) without tipping the 303(d) listing.
- Asking for maximum flexibility through CALM.
- Appreciate EPA's efforts to be very direct, clear, and transparent. Please continue this. Concerned that this openness might erode down the road. Continue to be clear where EPA (specifically Margaret) has authority and where it does not.
- We have begun a process of building trust between EPA and states. Trust is at the root of all concerns. EPA has said that documenting methodologies is not a test, but we are concerned that it may be a test down the road. If there is a test to pass, we would like the answers to the test ahead of time.
- Thanks to EPA for its efforts.
- Sharing information on states' activities is valuable.
- Describe how things in Phase 2 of CALM will relate to transition issues and issues addressed under Phase 1 of CALM.
- Why does the presentation include very few details on Phase 2 of CALM?
- Need information in the document on how to handle issues during transition. For example, how do we make decisions until EPA publishes nutrient criteria.
- Encourage EPA Headquarters to issue guidance to the Regions on how to review responses from the states.
- It is important to move this process to Phase 2.

- Concerned about the language. It sounds like an integrated review of program elements. Would hate to see the minimum standards become the best of standards.
- Provide the states with minimum elements of a monitoring program.
- Be clear about the elements that should be included in the methodology.
- Clearly state the purpose of CALM in the introduction of the document.
- Important to emphasize that CALM includes lakes as well as streams, wetlands, and coastal waters.
- Include as many definitions and purpose statements as possible to help the states interpret the intent of the document.
- Confusion regarding the content of Part A and Part B of the outline. Revisit the issues that are part of assessment and part of attainment decisions.
- Part A of outline should focus on monitoring and Part B of outline should focus on attainment. (Reverse the current order.)
- Use questions to prompt states to think about how to deal with interstate waters that do not have interstate organizations to address them. Need to promote data sharing and attainment decision making.

Attainment Decisions

- We need to look at when water quality standards should not apply.
- Provide more guidance on delisting.
- Delisting guidance is needed. EPA has to address interim process with new regulations.

Refinement of designated uses has a bearing on attainment/non-attainment decisions. Mention this issue in the methodology.

Northeastern states are comfortable with the idea of a "maybe list."

- Is the idea of threatened waterbodies no longer in discussion?
- Although a "maybe list" has no legal basis, the state can create a "maybe list" based on how it writes its methodology.
- Include information on different methods of data analysis for 303(d), 305(b), and ambient background in CALM document.

Comprehensive Assessment

- Probabilistic sampling does not make sense for purposes of 303(d) listing. Are we still only listing segments or listing subwatersheds if sampling is dense enough?
- EPA is convening a workgroup to determine how to incorporate probabilistic monitoring into 305(b) reporting.
- Monitoring programs cannot consist only of probabilistic monitoring.
- Incentives to conduct probabilistic monitoring are not apparent.
- Isn't the goal to tell Congress that we are monitoring all waters?

- Continue targeted monitoring. Use biological monitoring to determine if there is an impairment and use targeted monitoring to determine the source of the impairment.
- Point sources are collecting a lot of data and feel badly when states tell them there is not enough money to analyze the data.
- Texas publishes a data submittal document so folks collecting third party data know data requirements ahead of time. Encourage other states to make data requirements available.
- Address third party data issues such as how to use it, when to use it, what to do with it. Address third party data in the context of resource concerns and QA/QC concerns.
- Encourage the use of third party data, but realize that incorporating these data is a very labor intensive activity.
- How can this be used to draw in other programs?
- Who is going to look at all available data? To do so is extremely burdensome.
- This is a good opportunity to bring in Section 319 and get funding for 319 lakes assessment.
- The outline does not discuss database requirements or needs. A system for storing and statistically manipulating data will advance the cause. There needs to be consistency in such a database.
- Will EPA require the use of new STORET under CALM?
- We need to do a better job of defining the lists to the public.

Other

- Is the purpose of this document to give guidance on how to develop listing methodologies?
- The State of Indiana has received comments that support and request more prescriptive methodologies.
- EPA Region 6 has said that Section 122 water quality standards that could affect NPDES must be reviewed and approved. Region 6 wants to approve states' listing methodologies.
- Will this guidance replace the existing 305(b) guidance or is it just laying out how states do business? Want to know what states need to do at a minimum; this information will help with budgeting and resource allocation.
- What is the timeframe on criteria development? What is the timeframe on BEACHES?
- Clarify the phrase "power of datasets" from the slide on Guiding Principles Part A.
- Would like a compilation of state methodologies and monitoring programs to understand what other states are doing.